

HENNIGAN, BENNETT & DORMAN LLP
LAWYERS
LOS ANGELES, CALIFORNIA

Robert L. Palmer, Cal. Bar No. 181462
DoHoang T. Duong, Bar No. 219127
Paul B. Derby, Cal. Bar No. 211352
HENNIGAN BENNETT & DORMAN LLP
865 South Figueroa St., Suite 2900
Los Angeles, California 90017
Telephone: (213) 694-1200
Facsimile: (415) 362-7528
Email: Palmer@hbdlawyers.com
DuongD@hbdlawyers.com
DerbyP@hbdlawyers.com

Attorneys for Defendants
William E. and Desiree B. Moore Revocable Trust, Desiree
B. Moore Revocable Trust, William E. Moore Marital Trust,
William E. Moore Generation-Skipping Trust, and Desiree
Moore

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THOMAS FERNANDEZ and LORA SMITH,)
individually and on behalf of a class of all)
other persons similar situated,)

Plaintiffs,

vs.

K-M INDUSTRIES HOLDING CO. INC.;)
K-M INDUSTRIES HOLDING CO., INC.;)
ESOP PLAN COMMITTEE; WILLIAM E.)
AND DESIREE B. MOORE REVOCABLE)
TRUST; TRUSTEES OF THE WILLIAM E.)
AND DESIREE B. MOORE REVOCABLE)
TRUST; CIG ESOP PLAN COMMITTEE;)
NORTH STAR TRUST COMPANY;)
DESIREE B. MOORE REVOCABLE)
TRUST; WILLIAM E. MOORE MARITAL)
TRUST; WILLIAM E. MOORE)
GENERATION-SKIPPING TRUST; and)
DESIREE MOORE, BOTH IN HER)
INDIVIDUAL CAPACITY AND AS)
TRUSTEE OF THE WILLIAM E. AND)
DESIREE B. MOORE REVOCABLE)
TRUST'S SUCCESSOR TRUSTS NAMED)
ABOVE,)

Defendants.)

Case No. C 06-07339 MJJ

DECLARATION OF PAUL B.
DERBY IN SUPPORT OF
EXTENDING DEADLINE TO
ANSWER FIRST AMENDED
COMPLAINT

1 I, Paul B. Derby, hereby declare:

2 1. I am an attorney duly admitted to practice law in the State of California
3 and in this federal district. I have personal knowledge of the facts stated herein, and if
4 called as a witness, I could and would testify with respect thereto.

5 2. I am an associate at the law firm Hennigan, Bennett & Dorman LLP
6 ("HBD"), counsel for Defendants William E. and Desiree B. Moore Revocable Trust,
7 Desiree B. Moore Revocable Trust, William E. Moore Marital Trust, William E.
8 Moore Generation-Skipping Trust, and Desiree Moore (collectively, the "Moore Trust
9 Defendants").

10 3. I submit this Declaration in support of the concurrently-filed Stipulation
11 and [Proposed] Order Extending Deadline to Answer Amended Complaint, and to
12 advise the Court of the reason for the requested extension.

13 4. The Moore Defendants requested three additional weeks, to Monday,
14 July 16, 2007, to answer Plaintiffs' First Amended Complaint. Plaintiffs agreed to the
15 three-week extension. *See* concurrently-filed Stipulation and [Proposed] Order. The
16 extension is appropriate because:

17 a. Robert Palmer, the senior partner at HBD responsible to date for
18 overseeing this litigation on behalf of the Moore Trust Defendants, underwent
19 surgery last week and expects to be out of the office for the next few weeks.

20 b. The First Amended Complaint adds multiple defendants; makes
21 considerable new factual allegations, in particular as to the precise nature of the
22 interrelationships between the Moore family trusts; and subjects Ms. Moore to
23 both fiduciary duty and prohibited transaction claims. Among other things, the
24 Moore Trust Defendants require additional time to investigate Plaintiffs' new
25 allegations and the appropriate trust documentation in order to determine
26 whether to affirm or deny the allegations.

c. The requested extension does not prejudice Plaintiffs in any manner (indeed, Plaintiffs readily agreed to the extension), and will not delay the prosecution of this litigation in any manner. The Moore Trust Defendants have agreed to answer the First Amended Complaint, rather than engaging in motion practice. The parties are completing their document productions and have set the first depositions for next month. The lawsuit is moving forward, and allowing the Moore Trust Defendants the necessary additional time to answer Plaintiffs' new allegations will not impede the parties' current discovery efforts.

5. Absent unanticipated delays, the Moore Trust Defendants expect to answer the First Amended Complaint prior to July 16, 2007, and will do so if reasonably practicable.

I declare under penalty of perjury that the foregoing is true and correct. Dated at Los Angeles, California this 28th day of June, 2007.

Paul B. Derby
Paul B. Derby